IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.504 OF 2006
WITH
CIVIL APPLICATION NO.636 OF 2006

Shri Chandra Baba Mandir & Anr. ..Appellants.

V/s.

M/s.Sine Fine Advertising Pvt.Ltd..Respondent.
(Orig.Plaintiff.)

And

Shri Hundraj K. Nagpal. ..Respondent.
(Org.Deft.No.3)

Mr.Surel Shah with Ms. M.M.Patel i/b. M/s. M.M.Patel & Co. for appellants.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 17, 2006.

P.C. :

1. Heard.

2. This appeal is directed against the order passed by the Trial Court granting ad-interim relief to the plaintiff in terms of prayer Clause (a) of the Notice of Motion. Prayer clause (a) of the Notice of Motion reads thus:

> "(a) that pending the hearing and final disposal of the suit the Defendants, their servants agents and all persons claiming through them may be restrained by a temporary injunction of this honourable court not to discontinue or interfere with the display and the possession of the Plaintiff on the suit site being the illuminated hoarding

admeasuring 40 feet x 20 feet in the compound of Shri Chandrababa Mandir Trust at Dr.Annie Beasant Road, 86, Worli Naka, Mumbai - 400 018 till 01/07/2022 without following the due process of law."

3. It is obvious that the court below has granted that relief relying on the fact that by letter dated 8th September, 1989 the defendant/trust had granted extension of display rights for 20 years from 1/7/2002 to 30/6/2022. The fact that the respondent/plaintiff has committed default is a matter, which will have to be decided by the trial Court while considering notice of motion. Assuming that the respondent plaintiff is in default in paying monthly compensation and municipal taxes in terms of the consent terms filed before the court, whether that would entitle the appellant to dispossess the respondent plaintiff forcibly or by taking recourse to due process of law is a matter, which will have to be answered by the trial Court while deciding Notice of Motion. Thus, understood, no interference is warranted against the ad-interim order. Instead having regard to the nature of controversy involved, the trial court will be well-advised to dispose of Notice of Motion expeditiously preferably by end of 20th October, 2006. Parties shall complete the pleadings in the Notice of Motion on or before 26th July, 2006. The trial Court may assign some date for

hearing of the Notice of Motion as may be advised, to ensure the final disposal of the Notice of Motion within the specified time. All questions will have to be decided by the Trial Court on its own merits in accordance with the law.

4. The grievance of the appellant that no time period is specified for deposit of the amount by the repsondent/plaintiff can be taken care of by directing the respondent/plaintiff to deposit amount within four weeks from today. Counsel for the appellant assures to communicate this order to the respondent/plaintiff forthwith, so that respondent can take necessary steps to comply with that obligations.

5. Appeal as well as civil application disposed of on the above terms.